

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of ROGER G. ALVERSON and U.S. POSTAL SERVICE,
POST OFFICE, Oxnard, Calif.

*Docket No. 96-1763; Submitted on the Record;
Issued July 7, 1998*

DECISION and ORDER

Before MICHAEL J. WALSH, DAVID S. GERSON,
A. PETER KANJORSKI

The issue is whether appellant has established that he sustained an emotional condition in the performance of duty.

On August 14, 1995 appellant filed a claim alleging that he sustained an emotional condition causally related to his federal employment. In a narrative statement, appellant described the conditions of employment which he believed contributed to his emotional stress. Appellant stated that he had to case mail within a certain time frame, as well as deliver the mail and return to the office within a certain time, which created frustration and anxiety. According to appellant, in September 1994 he was observed by three supervisors with an unopened beer bottle, and subsequently he was followed on his route and his vehicle was searched. As a result of the incident, he received a two-day suspension and was often observed on his route by employing establishment inspectors. Appellant also discussed the DPS (delivery point sequence) system, which he asserted caused additional street time for delivery, and yet management had added more streets to existing routes.

In a decision dated January 31, 1996, the Office of Workers' Compensation Programs denied appellant's claim. By decision dated April 23, 1996, the Office denied appellant's request for reconsideration without merit review of the claim.

The Board has reviewed the record and finds that appellant has not established an emotional condition in the performance of duty.

Appellant has the burden of establishing by the weight of the reliable, probative and substantial evidence that the condition for which she claims compensation was caused or adversely affected by factors of his federal employment.¹ To establish his claim that he sustained an emotional condition in the performance of duty, appellant must submit: (1) factual

¹ *Pamela R. Rice*, 38 ECAB 838 (1987).

evidence identifying employment factors or incidents alleged to have caused or contributed to his condition; (2) medical evidence establishing that he has an emotional or psychiatric disorder; and (3) rationalized medical opinion evidence establishing that the identified compensable employment factors are causally related to his emotional condition.²

Workers' compensation law does not apply to each and every injury or illness that is somehow related to an employee's employment. There are situations where an injury or illness has some connection with the employment but nevertheless does not come within the coverage of workers' compensation. These injuries occur in the course of the employment and have some kind of causal connection with it but nevertheless are not covered because they are found not to have arisen out of the employment. Disability is not covered where it results from an employee's frustration over not being permitted to work in a particular environment or to hold a particular position, or secure a promotion. On the other hand, where disability results from an employee's emotional reaction to his regular or specially assigned work duties or to a requirement imposed by the employment, the disability comes within the coverage of the Federal Employees' Compensation Act.³

The initial question presented is whether appellant has established a compensable factor of employment as contributing to an emotional condition. It is not entirely clear from the January 31, 1996 decision whether the Office has accepted that appellant has alleged compensable factors of employment. The Board has reviewed the evidence and finds that some of appellant's allegations do relate to regular or specially assigned duties and therefore are compensable employment factors. Appellant has discussed his specific job duties of casing and delivering mail, alleging that he felt pressure to complete these duties within the time allotted. He indicated that the DPS system caused him problems because he had two separate bundles of letters in one hand and flats in the other, and occasionally letters are dropped, which resulted in more wasted time. A supervisor stated that the territory added to appellant's route was minimal, with appellant receiving 18 minutes of added delivery territory, and 10 minutes for office time. Appellant's allegation, however, appears to be that he felt anxiety in performing his regularly assigned duties within the existing time frames for those duties. This allegation relates to the performance of his duties and is considered a compensable factor of employment.

With respect to appellant's allegations concerning his suspension for having an unopened bottle of beer, and the subsequent observations of his route by supervisors and inspectors, he has not established a compensable factor of employment. Matters such as disciplinary actions and

route inspections are considered to be administrative or personnel matters unrelated to regular or specially assigned duties of the employee.⁴ Unless there is evidence of error or abuse in the

² See *Donna Faye Cardwell*, 41 ECAB 730 (1990).

³ *Lillian Cutler*, 28 ECAB 125 (1976).

⁴ *Anne L. Livermore*, 46 ECAB 425 (1995); *Jimmy Gilbreath*, 44 ECAB 555 (1993).

administration of a personnel matter, coverage will not be afforded.⁵ In this case no probative evidence was submitted establishing error or abuse by the employing establishment.

Since appellant has alleged a compensable factor of employment, the medical evidence must be examined to determine if appellant has established causal relationship between an emotional condition and the identified employment factor. In this case, the medical evidence is not sufficient to meet appellant's burden of proof. In a form report (Form CA-20) dated August 4, 1995, Dr. Robert K. Hanson, an internist, diagnosed depression and stress, and checked a box "yes" that the condition was causally related to employment. The checking of a box "yes" in a form report, without additional explanation or rationale, is of little probative value to the issue presented.⁶ In a report dated December 22, 1995, Dr. Stephen J. Wilson, a psychiatrist, provided a history discussing the September 1994 incident, noting that appellant later observed that he was followed in unmarked cars. As noted above, disciplinary actions and route inspections have not been accepted as compensable factors of employment in this case. Dr. Wilson does not provide an opinion as to causal relationship between an emotional condition and appellant's job duties.

In a report dated February 8, 1996, Dr. Hanson stated that "because of increased pressure on the job" appellant has had nightmares insomnia and began drinking. Dr. Hanson does not provide further detail regarding employment factors. Dr. Wilson also submitted a March 28, 1996 report, without further discussing the relevant issues.

The Board accordingly finds that appellant has not submitted medical evidence establishing an emotional condition causally related to compensable employment factors. It is appellant's burden to submit such evidence, and the Board finds that he has not met his burden of proof in this case.

⁵ *Mildred D. Thomas*, 42 ECAB 888 (1991).

⁶ *See Barbara J. Williams*, 40 ECAB 649, 656 (1989).

The decisions of the Office of Workers' Compensation Programs dated April 23 and January 31, 1996 are modified to reflect that appellant alleged a compensable factor of employment, and affirmed as modified.

Dated, Washington, D.C.
July 7, 1998

Michael J. Walsh
Chairman

David S. Gerson
Member

A. Peter Kanjorski
Alternate Member